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OFFICE OF PETITIONS

In re Application of :
Glenn A. Barber et al :
Application No. 10/008,260 : DECISION ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. Y01-067 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 19, 2005 (July 17, 2005, the due date, is a Sunday). A Notice of Appeal was filed on January 9, 2006, along with a two (2) month extension of time.¹ However, as the Notice of Appeal was not filed within the extendable time period set in the Office action of May 17, 2005, the Notice of Appeal was untimely. A Notice of Abandonment was mailed on September 25, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee, 2) the petition fee of \$750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 17, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2173 for appropriate action in the normal course of business on the Appeal Brief filed December 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

¹ As the two month extension of time fee was submitted outside the maximum period for reply, this fee is unnecessary. Petitioner may request a refund of the \$225 extension of time fee submitted on January 9, 2006 by writing to Mail Stop 16, Director of the U.S. Patents and Trademarks, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.